IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TENTH DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE M.H.S. ANSARI

and
THE HON'BLE MR JUSTICE T.CH.SURYA RAO

WRIT PETITION NO : 4438 of 2005

Between:

M/s. Ruchi Infrastructure Limited, Beach Road,

Kakinada, rep by Authorised Signatory
Mr. P.V.S.R.G. Prasad

..... PETITIONER

AND

1 The Commercial Tax Officer, Kakinada Division, Kakinada
2 The Appellate Deputy Commissioner(CT), Visakhapatnam
3 The Additional Commissioner (CT) Legal Andhra Pradesh, Hyderabad

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ of Certiorari or any other appropriate Writ order or direction quashing the order of the 3rd Respondent in LV(3)/345/2005 dated 3-3-2005 as illegal, arbitrary and consequently restrain the 1st Respondent from taking any coercive steps for collection of disputed tax of Rs. 21,70,401- for the

year 2003-04 under APGST Act and pass such other order or orders as the Hon'ble Court may deem fit and proper in the circumstances of the case.

Counsel for the Petitioner :Mr.V.BHASKAR REDDY VEMIREDDY

Counsel for the Respondents : Spl.GP FOR COMMERCIAL TAX

AND

WRIT PETITION NO : 4441 of 2005

Between:

M/s. Ruchi Infrastructure Limited, Beach Road, Kakinada,
Rep. by its Authorised Singnatory Mr. P.V.S.R.G. Prasad

..... PETITIONER

AND

1 The Commercial Tax Officer, Kakinada Division, Kakinada.
2 The Appellate Deputy Commissioner (CT), Visakhapatnam.
3 The Additional Commissioner (CT) Legal,

Andhra Pradesh, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ of Certiorari or any other appropriate Writ or Order or direction quashing the order of the 3rd respondent in LV(3)/345/2005 dated 3-3-2005 as illegal, arbitrary and consequently restrain the 1st Respondent from taking any coercive steps for Collection of disputed tax of Rs. 15,70,404/- for the year 2004-05 (up to September 2004) under APGST Act and pass such other order or orders as the Hon'ble Court may deem fit and proper in the circumstances of the case

Counsel for the Petitioner :Mr.V.BHASKAR REDDY VEMIREDDY

Counsel for the Respondents : GP FOR COMMERCIAL TAXES

AND

WRIT PETITION NO : 4443 of 2005

Between:

M/s Ruchi Infrastructure Limited, Beach Road, Kakinada,
rep. by its Authorised Signatory, Mr.P.V.S.R.G Prasad.

..... PETITIONER

AND

1 The Commercial Tax Officer, Kakinada Division, Kainada.
2 The Appellate Deputy Commissioner(CT) Visakahapatnam.
3 The Additional Commissioner (CT) Legal,

Andhra Pradesh, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ of Certiorari or any other appropriate writ or order or direction quashing the order of the 3rd Respondent in LV (3)/345/2005 dt.3.3.2005 as illegal, arbitrary and consequently restrain the 1st respondent from taking any coercive steps for collection of disputed tax of Rs.9,82,713/- for the year 2004-05 (upto September 2004) under CST Act and pass such other order or orders.

Counsel for the Petitioner :Mr.v.BHASKAR REDDY VEMIREDDY

Counsel for the Respondents : SPL.GP FOR COMMERCIAL TAXES

AND

WRIT PETITION NO : 4448 of 2005

Between:

M/s. Ruchi Infrastructure Limited, Beach Road, Kakinada,

Rep. by Authorised Signatory, Mr. P.V.S.R.G. Prasad

..... PETITIONER

AND

1 The Commercial Tax Officer, Kakinada Division, Kadinada
2 The Appellate Deputy Commissioner (CT) Visakhapatnam
3 The Additional Commissioner (CT), Legal,

Andhra Pradesh, Hyderabad

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ of Certiorari or any other appropriate Writ order or direction quashing the order of the 3rd Respondent in LV(3)/345/2005 dated 3-3-2005 as illegal, arbitrary and consequently restrain the 1st Respondent from taking any coercive steps for collection of disputed tax of Rs. 6, 24, 942/- for the year
2003-04 under CST Act and pass such other order or orders as the Hon'ble Court may deem fit and proper in the circumstances of the case.

Counsel for the Petitioner :Mr.V.BHASKAR REDDY VEMIREDDY

Counsel for the Respondents: SPL.GP FOR COMMERCIAL TAXES

The Court at the stage of admission made the following:

COMMON ORDER (Per TCSR,J)

Since the issue involved in all the writ petitions is same, they are

being disposed of by this common order.

2. The instant writ petitions are directed against the order passed by the Additional Commissioner (CT) Legal, Hyderabad.

3. The petitioners seem to have claimed certain sales tax incentives on the products being manufactures in their industrial units by virtue of a Government Order. The petitioners were not granted certain incentives on the premise that the eligibility certificates have not included the bye-products and, therefore, the petitioners are not entitled to any such incentives. Having been aggrieved by the assessment orders passed by the 1st respondent, petitioners preferred appeals to the Appellate Deputy Commissioner (CT), Visakhapatnam, where the appeals also ended in dismissal. During the pendency of the appeals, petitioners filed applications for stay, which were rejected and thereupon they approached 3rd respondent for grant of stay. Under the impugned orders, having regard to the above fact, the learned 3rd respondent also rejected the stay applications filed by the petitioners.

4. We have heard the learned counsel for the petitioners and the learned Government Pleader for Commercial Taxes.

5. Without adverting to the merits of the case, as the same will have to be decided in the appeals filed by the petitioners, which are now pending adjudication before the appellate Tribunal, we are inclined to dispose of the writ petitions with the usual order and directions. The petitioners shall pay 50% of the disputed tax giving credit to the amount paid while preferring the appeal, on or before 31.03.2005, in which event, the appeals filed by the petitioners shall have to be heard and disposed of in accordance with law by passing appropriate orders. Till then, collection of the balance disputed tax shall be stayed.

6. The writ petitions are disposed of accordingly with the above directions, but in the facts and circumstances, there shall be no order as to costs.

M.H.S.ANSARI,J

T.CH.SURYA RAO,J

AVS/RNS

DATE: 10.03.2005

To

1 The Commercial Tax Officer, Kakinada Division, Kakinada

2 The Appellate Deputy Commissioner(CT), Visakhapatnam

3 The Additional Commissioner (CT) Legal,

Andhra Pradesh, Hyderabad

4 Two CCs to SPL. G.P.for Commercial Taxes, High Court of A.P.,

Hyderabad, (OUT)

5 Two CD copies

6 One CC to MR.BHASKAR REDDY VEMIREDDY